

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

WESLIE MARTIN, *et al.*,

Plaintiffs,

v.

UNDERWOOD, *et al.*,

Defendants.

Case No. 3:23-cv-00423-MMD-CLB

ORDER

On August 28, 2023, Plaintiff Weslie Martin submitted a *pro se* civil-rights complaint under 42 U.S.C. § 1983 and applied to proceed *in forma pauperis*. (ECF Nos. 1-1, 1.) On September 25, 2023, Interested Party Nevada Department of Corrections filed a suggestion of death on the record in another of Martin's prisoner civil-rights cases, informing the Court that Martin passed away on September 11, 2023. See *Martin v. The State of Nevada*, Case No. 3:21-cv-00365-RCJ-CSD, ECF No. 15 (D. Nev. Sept. 25, 2023). Federal Rule of Civil Procedure 25(a)(1) provides that, "[i]f a party dies and the claim is not extinguished, the court may order substitution of the proper party." "A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed." Fed. R. Civ. P. 25(a)(1). But "if the right sought to be enforced survives only to or against the remaining parties, the action does not abate, but proceeds in favor of or against the remaining parties." *Id.* at (a)(2). And "[t]he death should be noted on the record." *Id.*

"Tyrek Settles Mother" is listed as a plaintiff in the complaint's caption, but no such person signed the complaint or any other document and either paid the \$402 filing fee or applied for *in forma pauperis* status. Litigants who are not represented by counsel are *pro se* and have the right to plead and conduct their own cases personally. 28 U.S.C. § 1654.

1 But *pro se* litigants have no authority to represent anyone other than themselves. See,  
2 e.g., *Simon v. Hartford Life, Inc.*, 546 F.3d 661, 664-65 (9th Cir. 2008) (collecting cases  
3 and explaining that a non-attorney plaintiff cannot pursue claims on behalf of others in a  
4 representative capacity); *Cato v. United States*, 70 F.3d 1103, 1105 n.1 (9th Cir. 1995);  
5 *C.E. Pope Equity Trust v. United States*, 818 F.2d 696, 697 (9th Cir. 1987).


6 It is therefore ordered that Plaintiff “Tyrek Settles Mother” is dismissed without  
7 prejudice from this action.

8 It is further ordered that this action will be dismissed in 90 days unless a motion to  
9 substitute under Federal Rule of Civil Procedure 25(a)(1) is filed with the Court.

10 It is further ordered that the application to proceed *in forma pauperis* (ECF No. 1)  
11 is denied as moot.

12 It is further ordered that the motions for relief (ECF Nos. 1-2, 1-3, 3, 4) are denied  
13 without prejudice.

14 DATED THIS 6<sup>th</sup> Day of December 2023.

15  
16   
17 \_\_\_\_\_  
18 MIRANDA M. DU  
19 CHIEF UNITED STATES DISTRICT JUDGE  
20  
21  
22  
23  
24  
25  
26  
27  
28